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DEPARTMENT OF COMMERCE

International Trade Administration

[C-489-836]

Dried Tart Cherries from the Republic of Turkey: Final Affirmative Countervailing Duty Determination

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) determines that countervailable subsidies are being provided to producers and exporters of dried tart cherries (cherries) from the Republic of Turkey (Turkey).

DATES: Applicable [Insert date of publication in the *Federal Register*].

FOR FURTHER INFORMATION CONTACT: Ajay Menon, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-1993.

SUPPLEMENTARY INFORMATION:

Background

This final determination is made in accordance with section 705 of the Tariff Act of 1930, as amended (the Act). The petitioner in this investigation is the Dried Tart Cherry Trade Committee.¹ The mandatory respondents in this investigation are Isik Tarim Urunleri Sanayi ve

¹ See Petitioner's Letter, "Petitions for the Imposition of Antidumping and Countervailing Duties: Dried Tart Cherries from the Republic of Turkey," dated April 23, 2019.

Ticaret A.S. (Isik Tarim) and Yamanlar Tarim Urunleri (Yamanlar Tarim). Neither the mandatory respondents, nor the Government of Turkey, responded to our requests for information in this investigation. On September 27, 2019, Commerce published in the *Federal Register* the *Preliminary Determination* and invited interested parties to comment.² We received no comments regarding the *Preliminary Determination*.

Period of Investigation

The period of investigation is January 1, 2018 through December 31, 2018.

Scope of the Investigation

The products covered by this investigation are cherries from Turkey. For a complete description of the scope of this investigation, *see* the appendix to this notice.

Analysis of Subsidy Programs – Adverse Facts Available (AFA)

For purposes of this final determination, we relied solely on facts available, because neither the Government of Turkey, nor either of the selected mandatory respondents, participated in this investigation. Further, because the mandatory respondents and the Government of Turkey did not cooperate to the best of their abilities in responding to our requests for information in this investigation, we drew adverse inferences in selecting from among the facts otherwise available, in accordance with sections 776(a)–(b) of the Act. Therefore, consistent with the *Preliminary Determination*, we continue to apply AFA to Isik Tarim and Yamanlar Tarim. No interested party submitted comments on the *Preliminary Determination*. Thus, we made no changes to the subsidy rates for the mandatory respondents for the final determination. A detailed discussion of

² See *Dried Tart Cherries from the Republic of Turkey: Preliminary Affirmative Countervailing Duty Determination*, 84 FR 51109 (September 27, 2019) (*Preliminary Determination*), and accompanying Preliminary Decision Memorandum (PDM).

our application of AFA is provided in the *Preliminary Determination* and the accompanying Preliminary Decision Memorandum.³

All-Others Rate

As discussed in the *Preliminary Determination*, Commerce based the selection of the all-others rate on the countervailable subsidy rate established for the mandatory respondents, in accordance with section 705(c)(5)(A)(ii) of the Act.⁴ We made no changes to the selection of the all-others rate for this final determination.

Final Determination

Commerce determines that the following estimated net countervailable subsidy rates exist:

Company	Subsidy Rate
Isik Tarim Urunleri Sanayi ve Ticaret A.S.	204.93 percent
Yamanlar Tarim Urunleri	204.93 percent
All-Others	204.93 percent

Disclosure

The subsidy rate calculations in the *Preliminary Determination* were based on AFA.⁵ As noted above, there are no changes to the calculations. Thus, no additional disclosure is necessary for this final determination.

Continuation of Suspension of Liquidation

³ *Id.*, PDM at “Use of Facts Otherwise Available and Adverse Inferences.”

⁴ *See Preliminary Determination*, 84 FR at 51110.

⁵ *Id.*, PDM at Appendix – “AFA Rate Calculation.”

As a result of our *Preliminary Determination* and pursuant to sections 703(d)(1)(B) and (d)(2) of the Act, Commerce instructed U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise as described in the scope of the investigation section entered, or withdrawn from warehouse, for consumption on or after the date of publication of the *Preliminary Determination* in the *Federal Register*.

If the U.S. International Trade Commission (ITC) issues a final affirmative injury determination, we will issue a countervailing duty (CVD) order, continue the suspension of liquidation under section 706(a) of the Act, and require a cash deposit of estimated countervailing duties for such entries of subject merchandise in the amounts indicated above. If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated and all estimated duties deposited or securities posted as a result of the suspension of liquidation will be refunded or canceled.

ITC Notification

In accordance with section 705(d) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non-privileged and non-proprietary information related to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order (APO), without the written consent of the Assistant Secretary for Enforcement and Compliance.

Because the final determination in this proceeding is affirmative, in accordance with section 705(b) of the Act, the ITC will make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of cherries from Turkey no later than 45 days after our final determination. If the ITC

determines that material injury or threat of material injury does not exist, the proceeding will be terminated and all cash deposits will be refunded. If the ITC determines that such injury does exist, Commerce will issue a CVD order directing CBP to assess, upon further instruction by Commerce, countervailing duties on all imports of the subject merchandise that are entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation, as discussed above in the “Continuation of Suspension of Liquidation” section.

Notification Regarding APOs

In the event that the ITC issues a final negative injury determination, this notice will serve as the only reminder to parties subject to the APO of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

Notification to Interested Parties

This determination is issued and published pursuant to sections 705(d) and 777(i) of the Act.

Dated: December 4, 2019.

Jeffrey I. Kessler,

Assistant Secretary

for Enforcement and Compliance.

Appendix

Scope of the Investigation

The scope of this investigation covers dried tart cherries, which may also be referred to as, *e.g.*, dried sour cherries or dried red tart cherries. Dried tart cherries may be processed from any variety of tart cherries. Tart cherries are generally classified as *Prunus cerasus*. Types of tart cherries include, but are not limited to, Amarelle, Kutahya, Lutowka, Montmorency, Morello, and Oblacinska. Dried tart cherries are covered by the scope of this investigation regardless of the horticulture method through which the cherries were produced (*e.g.*, organic or not), whether or not they contain any added sugar or other sweetening matter, whether or not they are coated in oil or rice flour, whether infused or not infused, and regardless of the infusion ingredients, including sugar, sucrose, fruit juice, and any other infusion ingredients. The scope includes partially rehydrated dried tart cherries that retain the character of dried fruit. The subject merchandise covers all shapes, sizes, and colors of dried tart cherries, whether pitted or unpitted, and whether whole, chopped, minced, crumbled, broken, or otherwise reduced in size. The scope covers dried tart cherries in all types of packaging, regardless of the size or packaging material.

Included in the scope of this investigation are dried tart cherries that otherwise meet the definition above that are packaged with non-subject products, including, but not limited to, mixtures of dried fruits and mixtures of dried fruits and nuts, where the smallest individual packaging unit of any such product contains a majority (*i.e.*, 50 percent or more) of dried tart cherries by dry net weight. Only the dried tart cherry components of such products are covered by this investigation; the scope does not include the non-subject components of such products.

Included in the scope of this investigation are dried tart cherries that have been further processed in a third country, including but not limited to processing by stabilizing, preserving, sweetening, adding oil or syrup, coating, chopping, mincing, crumbling, packaging with non-subject products, or other packaging, or any other processing that would not otherwise remove the merchandise from the scope of the investigation if performed in the country of manufacture of the dried tart cherries.

Excluded from the scope of this investigation are dried tart cherries that have been incorporated as an ingredient in finished bakery and confectionary items (cakes, cookies, candy, granola bars, *etc.*).

The subject merchandise is currently classifiable under 0813.40.3000 of the Harmonized Tariff Schedule of the United States (HTSUS). The subject merchandise may also enter under subheadings 0813.40.9000, 0813.50.0020, 0813.50.0060, 2006.00.2000, 2006.00.5000, and 2008.60.0060. The HTSUS subheadings set forth above are provided for convenience and U.S. customs purposes only. The written description of the scope is dispositive.

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